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|-----------------|-------------|----------------------|---------------------|
| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|

09/705,457 11/02/00 ANDYA

J P0998D3

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| EXAMINER |
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HM22/0604

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|            |              |
|------------|--------------|
| DIBBINO, M |              |
| ART UNIT   | PAPER NUMBER |

1644

DATE MAILED:

06/04/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/705,457

Applicant  
Andya et al.

Examiner  
Marianne DiBrino

Art Unit  
1644



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Nov 2, 2000
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 37-44 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 37-44 are subject to restriction and/or election requirements.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☒ Other: Restriction election facsimile transmission form

### DETAILED ACTION

1. In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-308-4315. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Paula Hutzell, Ph.D., Supervisory Patent Examiner at Paula.Hutzell@uspto.gov or 703-308-4310. Thank you in advance for allowing us to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.

2. Applicant's amendment filed 11/2/00 (Paper No. 2) is acknowledged and has been entered.

3. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 37-40 and 44, drawn to a method for treating an IgE-mediated allergic disease in a mammal comprising administering a formulation comprising an antibody which binds IgE and a lyoprotectant, classified in Class 424, subclasses 130.1, 141.1, 145.1 and Class 514, subclasses 53 and 54.

II. Claims 37-39, 41 and 44, drawn to a method for treating a parasitic infection in a mammal comprising administering a formulation comprising an antibody which binds IgE and a lyoprotectant, classified in Class 424, subclasses 130.1, 141.1 and 145.1 and Class 514, subclass 53 and 54.

III. Claims 37-39, 42 and 44, drawn to a method for treating interstitial cystitis in a mammal comprising administering a formulation comprising an antibody which binds IgE and a lyoprotectant, classified in Class 424, subclasses 130.1, 152.1 and 156.1 and Class 514, subclass 23.

IV. Claims 37-39, 43 and 44, drawn to a method for treating asthma in a mammal comprising administering a formulation comprising an antibody which binds IgE and a lyoprotectant, classified in Class 424, subclasses 130.1, 152.1 and 156.1 and Class 514, subclass 23.

4. Inventions I, II, III and IV are different methods of use.

These inventions are methods for treating different diseases which have different pathologies, etiologies, symptoms and prognoses.

Therefore they are patentably distinct.

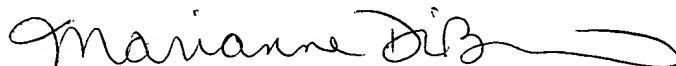
5. Because these inventions are distinct for the reasons given above and the search required for any group from Groups I-IV is not required for any other group from Groups I-IV and Groups I-IV have acquired a separate status in the art as shown by their divergent subject matter, restriction for examination purposes as indicated is proper.

6. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.


7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne DiBrino whose telephone number is (703) 308-0061. The examiner can normally be reached Monday through Friday from 8:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.



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Technology Center 1600  
May 25, 2001



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